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Judiciary Committee Public Hearing
RAISED BILL NO. 446
AN ACT CONCERNING AMOUNT OF BOND FOR MISDEMEANOR AND VIOLATIONS
March 29, 2012

TESTIMONY OF JON L. SCHOENHORN, FORMER PRESIDENT OF THE CONNECTICUT CRIMINAL DEFENSE LAWYERS ASSOCIATION, IN SUPPORT OF RAISED BILL NO. 446

Chairman Coleman, Chairman Fox, Distinguished Members of the Judiciary Committee:

Even though persons accused of crime have a constitutional right to bail in all cases in this state except capital ones, there remains a lack of consistency in the setting of bail amounts, particularly on misdemeanor charges and motor vehicle violations that constitute the majority of cases in the Part B or Geographical Area courthouses. Bail should not be greater than necessary to ensure the appearance of the accused for trial. I have been practicing law for nearly 30 years. I have represented clients and observed countless court proceedings where bonds are set without regard to individual circumstances of the accused, depending on the predilections of the police, bail commissioners and, unfortunately, some judges, both experienced and inexperienced.

I have specific knowledge of cases involving the charge of breach of peace and other misdemeanor cases where bail amounts between $25,000.00 and $50,000.00 were set, without regard to whether the accused has ever failed to appear before. There are many misdemeanor cases where courts and police set forth $10,000.00 bonds without setting forth a reason. It appears that media coverage of an arrest can impact the amount of bail, along with a vocal advocacy group, past interaction between the accused and the police, or even a prior acquittal. If an accused cannot afford a bondsman, he or she may sit in pre-trial custody for longer than the maximum sentence permitted under the statute, unless a speedy trial motion is filed. Even if the bondsman's fee is paid, this might come at the cost of exhausting financial resources that would otherwise be used to hire a private attorney.

Currently there is no practical way to challenge the amount of bail set in a warrant, or by police, until a court appearance the following business day. That means an accused held on a misdemeanor could remain incarcerated for up to four days during holiday weekends. While there is an appellate procedure known as a "motion for review" to challenge an excessive bond set

during a court appearance, it is a cumbersome and lengthy process and almost never results in a reduction, particularly where specific reasons are not required.

This bill does not preclude a court from setting bonds in any reasonable amount, based upon the specific circumstances of the case, nor does it take away the discretion of bail commissioners. It merely requires that those officials set forth their rationale, either in writing or on the record in court, before setting bonds greater than $5,000.00. That is the least that should be required before taking away the liberty of a person charged with a minor offense. Moreover, this bill does not suggest that $5,000.00 is the appropriate or "reasonable" amount to be set for most misdemeanor and violation cases. Written promises to appear, non-surety bonds or surety bonds in lesser amounts must be considered first to assure an accused's appearance.